THE CITY OF ST. JOHN'S

and

THE DRAFT QUIDI VIDI VILLAGE DEVELOPMENT PLAN (February 2006)

REPORT ON A PUBLIC CONSULTATION PROCESS

JOHN F. ROIL, Q.C.

JUNE 23, 2006

Preliminary

I was appointed by the City of St. John's to conduct a public meeting and to provide a report with recommendations on the proposed Quidi Vidi Village Development Plan (often, "the Plan") as prepared for the City by the Grand Concourse Authority and Tract Consultants.

Notice of the meeting was published in the *Telegram*, there was widespread distribution of notices of the meeting to households in Quidi Vidi and the meeting was conducted in the E.B. Foran Room at St. John's City Hall on Wednesday, May 24, 2006 from 7:00 pm to approximately 9:45 pm.

Prior to that date, a number of persons and groups made written submissions to the City. Some also delivered their submissions at the meeting. Copies of all written submissions have been made available to the City's Planning Division. As they are lengthy in total, they are not appended to or incorporated in this Report.

The meeting was attended by approximately 85 persons. All citizens who wished to speak were given an opportunity to be heard, some on more than one occasion. In addition to the numerous staff persons from the City who were present as a resource to both me and the residents, six councillors, Frank Galgay, Sandy Hickman, Wally Collins, Art Puddester, Tom Hann and Ron Ellsworth, also attended, primarily as observers.

A transcript or recording of the proceedings was made by Discoveries Unlimited for one of the interested parties, and a copy of the tapes was offered to me. It has not been received to the date of this Report. In addition, City staff person Kelly Butler assisted me in taking notes which now constitute the record of the meeting and upon which notes I have relied. I am very grateful for her assistance which then allowed me to listen carefully to

the points being made by the various speakers and now enables me to reproduce many of the comments from those speakers.

The Development Plan

The Quidi Vidi Village Development Plan has been prepared for the City of St. John's to provide a suggested and conceptual planning model which would allow that unique community to grow in the context of its historical roots as a fishing community, while at the same time recognizing the impact that tourism has on both its current needs and future development. Lying as it does at the eastern edge of our City which is ringed with natural walking trails that have been developed over the past number of years by the Grand Concourse Authority (successor to the Johnson Family Foundation), the City apparently turned to that Authority to suggest a plan for future development within the Village.

The "Final Draft" Plan as presented to the meeting is the result of a planning exercise that involved discussion with various landowners in Quidi Vidi and consultation with city officials. In the end, however, it fell upon Neil Dawe, formerly the Executive Director with the Authority for many years but now an independent consultant with Tract Consulting Inc., to develop the concept and prepare the Plan. While in the Executive Summary it is noted that the purpose is to develop Quidi Vidi Village "as a tourist attraction and an attractive place to live", it is clear that the focus is primarily on the tourism infrastructure and the planning necessary to support and encourage that industry. Six separate but often related projects lie at the core of the Plan:

1. **The *General Store and Visitor Centre* (tentatively labeled "Eli's Store") at the head of the harbour.**

2. **The *Quidi Vidi Pierwalk*, a tourist walking trail which would ring much of the harbour.**
3. **The *Quidi Vidi Gut Lookout*, near the entrance of the harbour and incorporating landing facilities for small pleasure vessels.**
4. ***Cascade Park*, developed around the natural cascading waters at the end of Quidi Vidi Lake at the northern entrance to the Village**
5. **The *Quidi Vidi Pass Battery*, a historical recreation of a defence fortification on high ground western entrance and at the eastern end of Quidi Vidi Lake, and**
6. **A *Neighbourhood Playground* for local children, suggested for a location near Regiment Road.**

To support these developments, the Plan calls for improved pedestrian and vehicular circulation, increased tourist parking sites within close proximity to the Village core, the development of a historic precinct to help preserve and enhance architectural features of structures, together with significant open space zones to provide aesthetic and buffering separation from the ordinary residential development mainly at the western boundary where the Village joins the rest of the City. In preparing the design concept, the consultants spoke with many residents and landowners whose landholdings might be significantly affected by the Plan, and although clearly not every resident or landowner was mentioned in the Report, reference was made in the Report to contact with certain individuals Finally, an orderly timing of developments was suggested and an order-of-magnitude estimate of costs was included.

While in public statements the Mayor has associated this Plan with one particular councillor, there was no suggestion within the Plan itself or made at the meeting to associate this Plan with any councillor or group of persons. Clearly, the Report was a product of the consultants who took input from

many persons, but ultimately accepted professional responsibility for the proposals within the document.

The Existing Planning Context

The City of St. John's adopted its current Municipal Plan on October 6, 2003. As the Plan notes, the undersigned acted as facilitator of the public consultation process that preceded the adoption of that Plan.

The site here under review is within Planning Area 2 (PA2) – "East End, Battery, Quidi Vidi Village" and is a part of Neighbourhood "D". The following extract from the Municipal Plan at Section 3.2.2 states the primary objectives in terms of planning:

> ***"The general policy is to protect the basic character of historic Quidi Vidi Village and surrounding scenic and historic sites without jeopardizing reasonable opportunities for development. To this end, the developed part of the Historic Village around the Gut shall be developed so as to retain uses and densities of uses that presently characterize the area."***

The preservation of open space areas, the development of historic sites and the control of recreation facilities were also noted as imperatives.

Issues Raised at the Meeting

I will note the principal concerns and comments which have made clear impressions on me. With one notable exception, where the presenter's objective was apparently to scoff and mock both the Plan and the meeting, all citizens made meaningful comments and suggestions which have assisted me in making my final recommendations.

Prior to and at the public meeting, written representations were received from the following people. These representations I have reviewed and will consider in the context of this Report:

Mr. Mark Copping Beverley Anne Butters and Ron Stamp Mr. Brian Young Dr. John Buffinga

Doris Hopkirk David Squires,

Len Hanlon Sandra and Brend Buckingham

Bernadette Ring

<u>Councillor Galgay</u>

Councillor Galgay, who has particular responsibility for the Village which lies in his Ward, expressed thanks to those in attendance for taking the time to participate in the public meeting and give their opinion on the Quidi Vidi Village Development Plan.

<u>Neil Dawe - Tract Consulting</u>

Mr. Dawe first gave a brief history of the preparation of the Development Plan. The purpose of the Plan is to try and create a valuable tourism asset while at the same time not interfering with the residents of the Village.

Mr. Dawe then provided a brief overview of the Development Plan noting that it is only a concept and that changes and modifications can be made as required. Should residents decide not to support the Plan, then it will proceed no further. He indicated that the proposed locations for the trails are conceptual only as it was difficult to ascertain where certain property boundaries were located. However, to ensure the success of the tourism industry in the Village, two key tourism assets must be maintained - the traditional fishing community character of the Village and the landscape character. In order to achieve this goal, the following recommendations were made:

- **Maintain a circle of green (open) space around the Village. Housing developments within the existing Open Space are not recommended.**

- **Expand the existing Signal Hill National Historic Site boundary to include Cuckhold's Cove Head and to the north to include lands currently zoned Open Space. These lands are part of the military history of Signal Hill and should be included in the park.**

- **Establish a Heritage Precinct in the Village to guide development and try and maintain the character, architecture and landscape.**

- **Maintain the traditional vernacular architecture of a traditional fishing village. To this end, local architect Philip Pratt made a number of suggestions and sketches to illustrate the character that should be maintained**

- **Conduct an internal assessment of the need for a Design Study which would make suggestions for the boundary of the historic precinct, the preservation of views, and identify opportunities for residential development using alternative "green" technology for providing water and sewage services.**

- **Work with private landowners in assessing opportunities to develop the area at the end of Barrow's Road into a themed traditional Newfoundland fishing village.**

- **Undertake an engineering study to determine the viability of removing the large underwater stone at the mouth of Quidi Vidi Gut which would greatly enhance the ability of the harbour to attract tour boats and leisure craft.**

- **Assess opportunities to enter into a public-private partnership to develop "Eli's Wharf" as an anchor tourist attraction. It was noted that the City had recently purchased this property.**

Plan would see the construction of several tourist attractions, including:

- **the General Store and Visitor Centre (identified as "Eli's Wharf") - the anchor development for the Plan;**

- **the Quidi Vidi Pierwalk to promote pedestrian traffic in the Village and keeping buses and vehicles at the perimeter of the Village. This area could be used for building kiosks for small tourism related businesses (craft shop, snack bar, etc.)**

- **the Quidi Vidi Gut Lookout**
- **Cascade Park**
- **the Quidi Vidi Pass Battery; and**
- **a Neighbourhood Playground**

Mr. Dawe advised that following the presentation of the initial Draft Development Plan in 2005, the Grand Concourse Authority and City Planning Staff met with each of the individual land owners who had active development applications for the Village and made recommendations for development of their properties.

Cost estimates for the implementation of the Plan and the construction of the tourist attractions is approximately $5.5 million. This does not include funding that may be required for land acquisitions.

The meeting was then opened for questions and comments by residents.

Gerald Power

Mr. Power inquired why property owners whose land is affected by recommendations to extend Signal Hill National Historic Park boundary were not made aware of this issue. Mr. Dawe indicated that he and members of City staff met with each of the landowners prior to the release of the Plan to advise them of the recommendations.

Brian Young

Mr. Young noted that there was no mention in the presentation regarding the recommendation for the future purchase and removal of the dwelling on the Bragg property, and he inquired if this was still part of the Plan. Mr. Dawe advised that this was still being recommended.

Jack Harris

Mr. Harris inquired about the location of the proposed Quidi Vidi Pass Battery, and whether it was on part of the former Pittman property. Mr. Dawe noted that the Pass Battery would be located at the very top of the Pittman property.

Doris Hopkirk

Ms. Hopkirk suggested that the Development Plan be renamed the "Quidi Vidi Village *Tourism* Development Plan" as its main purpose seemed to be to develop tourism in the Village. She inquired as to how much consideration in the development of the Plan was given to the rights of landowners as opposed to the rights of tourists. She also inquired as to how much the proposed Pass Battery park would encroach onto her property and what type of developments would be permitted in the Village under this Plan.

Mr. Dawe agreed that tourism is the main focus of the Plan. He also advised that there are no recommendations for expropriation, only suggestions that the specified lands be purchased through negotiation with the affected landowners. If a landowner doesn't want to sell his/her property, then they don't have to. The purpose of acquiring property and having it revert to open space was to help maintain the visual character of the Village.

With respect to the types of developments that might be permitted, he indicated that the Report only recommends that any development be done in a manner that is in keeping with the current character and architecture of the Village.

The only zoning changes being recommended are those where the purchase of land would be negotiated and then reverted to Open Space. If the recommended lands cannot be purchased, the zoning will not be changed.

Norm Mitchell (representing the Bragg Family)

Mr. Mitchell expressed dismay that, in his meetings with the consultant, there was no mention of moving the boundary of the Signal Hill National Historic Park. Yet when he received the draft Plan, it contained a recommendation that the boundary of Park be extended to incorporate part of the Bragg property. Mr. Dawe acknowledged that this recommendation was not discussed during his consultation with Mr. Mitchell. He noted, however, that after the meetings with the individual landowners, the draft Plan was again reviewed with a view to reassessing the opportunities, and it was then that the idea of expanding the Park boundaries was conceived.

Ray Bursey

Mr. Bursey expressed concern regarding the removal of the breakwater from the harbour to allow more marine based tourism activities, and asked if there had been an engineering study done on the matter. Mr. Dawe indicated that the idea was to remove the large stone underwater at the mouth of the harbour, not the breakwater. However, this removal would have to be fully investigated before this project could proceed.

Jeff Blackwood

Mr. Blackwood expressed skeptism about the Plan being only conceptual if the City has already purchased the Eli's Wharf property. This is not usually the type of investment the City would make without having a firm commitment to proceed with the Plan. He also questioned the Report's key recommendations, in particular, the time frame for implementing these recommendations should the Plan be adopted by Council, and what restrictions would be put on possible development in the meantime.

Mr. Dawe noted that when Eli's Wharf property was put on the market, the City agreed to purchase it to support the Plan. This was done with the

knowledge that should the Plan not proceed, the City could divest itself of the property. Regarding the time frame for implementing the Report's recommendations, Mr. Johnston advised that Council will have to make a decision on how it wants to proceed in this matter after the report of this meeting is submitted. He noted that Council earlier imposed a moratorium upon major developments in the Village until the Plan was completed, but recently decided to lift that moratorium and process development applications for the Village in accordance with the current Municipal Plan and the Development Regulations.

Dave Fong - Quidi Vidi Brewing Company ("Brewery")

Mr. Fong expressed concern about possible life safety and liability issues arising from the proposed harbour Pierwalk. He noted that the Brewery is a commercial property using commercial vehicles and equipment, and there is concern that should someone be injured while using the Pierwalk on their property, the company would be liable.

Mr. Dawe indicated that he and City staff had met with Mr. Fong's business partner, Mr. Reese, to discuss the project and he had been quite enthusiastic about it. Mr. Dawe also noted that public access across private property can only be done with the consent of the property owner and, if was granted, then an agreement would be drawn up between the City and landowner under which the City would agree to indemnify the owner against any law suits from parties injured while using the public access. He advised that this is similar to what the City does for the Grand Concourse trails.

Mr. Fong indicated that, despite these assurances, he still had significant concerns with liability issues and would not grant permission for public access over the Brewery property.

Sharon Tucker

Ms. Tucker noted that she owns land in Cuckhold's Cove and she questioned why she was never contacted about any plans with respect to her property. She also noted that her mother-in-law was quite upset about the use of late husband's name, Eli Tucker (Eli's Wharf), in the Plan without consulting her. Mr. Dawe indicated no disrespect was intended and the name could be changed.

Norma Pumphrey

Ms. Pumphrey expressed her dismay that the concerns of land developers seem to be overshadowing the need to preserve the character and beauty of the Village as proposed in the Development Plan. She was cynical about the Plan and condemned it, leaving the meeting abruptly after speaking.

Joan Soper

Regarding earlier comments made about the lack of consultation with landowners, Ms. Soper noted that she is also a landowner in the Village and received no invitation to discuss plans for her property. Meetings were only held for some members of the Land Owners Association.

Mr. Johnston advised that consultations were held with those landowners who had active development applications before the City at the time of the preparation of the draft Plan.

Judy Ryerson - for Quidi Vidi Village Foundation ("Foundation")

Ms. Ryerson thanked those who had helped get the Plan to the final stage of the planning process, i.e., the public meeting. The Foundation feels that the Plan has much merit and contains many positive things; however, there is always room for change. It is better to have some plan than to have none at all. Questioned on whether the Foundation had any concerns as to inflexibility of the Plan once adopted, Ms. Ryerson indicated that it is only a

draft Plan at this point and there can be changes made that may make it more acceptable to everyone. More discussion is necessary before a point is reached where there is consensus on the Plan and where it can be finally adopted by Council. If there are no guidelines for the future development in the Village, there could be large scale developments similar to the recent one on Barrows Road, and then the character and charm of the Village will be lost forever. She stressed the need to have a plan to ensure that this does not happen.

<u>Derek Drodge -for Quidi Vidi Land Owners' Association ("Association")</u>
Quidi Vidi is a good place to live and the landowners just want to be able to develop their own properties and don't want the Village it be developed strictly as a tourist destination. However, if Council wants to make it a tourist attraction, it should buy all the land and then do whatever it wishes.

Regarding the proposed pierwalk and trail projects, Mr. Drodge noted that many of the property owners who would be affected were not consulted about the matter. There are existing fishing sheds around the harbour still actively being used today, and having a walkway around this area doesn't make sense. The design works well if the focus is on tourism, however, it is still a place where people live, and the Plan doesn't focus enough on that fact. Mr. Drodge noted that those members of the Association who own land around the harbour have indicated that they don't want the Pierwalk or any trails on their properties as they have concerns about insurance and liability issues.

Regarding the proposal to remove the large stone from the harbour, Mr. Drodge suggested that the boats that would come into the harbour would not have anywhere to tie up without the pierwalk in place. The only site that could be used for this purpose would be either of the City owned properties at Eli's Wharf and Barrows Road. He also questioned how people would be able

to access Cascades Park without the proposed Pierwalk. In addition, Mr. Drodge referenced the location of the Pierwalk along the top of the existing slipway, and he noted that it would make it difficult for people to get their boats in and out of the water.

Mr. Drodge noted that the Association's members are also concerned about the loss of privacy with many of the proposed trails running near or through private properties. The Pass Battery Park would allow tourists to look down into people's homes and backyards. In conclusion, he noted that the majority of the Plan is well suited for a tourist destination, however, the Village is first and foremost a place where people live, and this should be the main focus of any Development Plan.

<u>Brian Young</u>

Mr. Young stated that, while the Plan has some good points, it is too restrictive and doesn't permit any landowner with property in the open space area to capitalize on their investment. The Plan talks about tourism opportunities for residents, but is recommending that his property by purchased by the City, that the existing building be removed and a Lookout be developed on the site. Mr. Young also referenced the recommendations to expand the boundary of Signal Hill National Historic Park, noting that there is no need to expand the boundary. People want to be able enjoy their property for their own personal use, but the Plan is taking away their ability to do that.

Mr. Young reiterated that he only wants to be able to capitalize on his investment and use his property for his own benefit, but this Plan will not allow him to do that.

<u>Linda Hennebury</u>

Ms. Hennebury advised that Quidi Vidi Village is already a tourist destination because of its unique location and attractive scenery. If large houses are allowed to be built in the Village, it will lose its special character and appeal. A development plan is necessary to ensure that this does not happen and to ensure that tourists can see the Village without adversely impacting the residents.

Bernadette Arsenault

Ms. Arsenault stated that the Village is a tourist destination because of its beauty and its proximity to the ocean. She referenced the City-owned land on Barrows Road, and noted that it looks very shabby, and she suggested that the City take action to make it look more presentable. Many tourists visit the Village every year, but there is very little infrastructure for them - no park benches, walkways, etc. More has to be done to accommodate the tourists because Quidi Vidi Village is on their list of places to see regardless of whether there is any type of development plan in place.

A plan is most definitely needed, and Council has to make the decision on whether to adopt this Plan and its recommendations. Land rights should be negotiated for the proposed trails and expropriation should not take place.

Todd Perrin

Mr. Perrin observed that there is definitely a need to have a development plan in the Village as there is little existing infrastructure for tourists. It is understandable why residents are fearful that the Village could be overtaken by development, given the poor track record for developments in the City. Mistakes have been made in the past and people have reason to be concerned. While there are good elements in the draft Plan, it seems to suggest a "Disney" site, yet what people want to see is already there, a real fishing community. There is no need to build a traditional fishing village when one already exists. All the Village needs is a little refurbishment and clean-up.

Regarding the possibility of using the road as a walkway for pedestrians, Mr. Perrin suggested, in the interest of safety, that the roads should be made one-way, with a boardwalk on one side for pedestrians.

Maurice Arsenault

Mr. Arsenault expressed his support for the Plan as it protects against the loss of views and loss of use. He referenced the vacant parcels of land at 45 and 47 Barrows Road, noting that he had written Council a few years ago to express his concern about the future development of these lots and the potential loss of views. He indicated he was pleased to find out that the City had purchased 45 Barrows Road to be used as a future tourist viewing area, and he suggested that the City consider purchasing Civic 47 as well to be used for the same purpose. If housing developments were permitted on these two lots, it would result in the significant loss of views for residents, as was the case when the townhousing development was permitted on the adjacent site. Protection of views is very important and should be reflected in any development plan for the Village.

Mike Mallard

Mr. Mallard noted that the Village has always been a tourist attraction; however, access should be controlled, and that it what this Plan is attempting to do. It is dangerous to have large buses coming into the Village on narrow streets. He expressed his support for residents in the Village who want to develop their family land, but he had concerns about permitting the construction of large houses and/or buildings. He indicated he would prefer to see single detached houses rather than row housing. The only way to protect the Village from large scale developments is to have a development plan in place.

Doris Hopkirk

Ms. Hopkirk advised that she has served on the Foundation and is a member of the Association as well. While she has interest in developing her land, she is also a heritage lover and indicated any developments should be in keeping with the character and architectural style of the Village. This could be encouraged through some type of grants program.

Derek Drodge

Mr. Drodge noted that there are two consistent themes raised in the discussion: (1) that tourists are important, and (2) that people don't want to see large scale developments in the Village. He indicated that the draft Plan recommends conducting a Design Study, and the Association is supportive of this idea. Any type of development in the Village should have to meet certain criteria, however, and it should not be turned into a "tourist trap". Putting a walkway around the harbour and trails through private property does not make sense.

There are parts of the Plan that the Association supports such as keeping the character and architectural style of the Village and having a Heritage Precinct. However, the Association does take issue with Council turning down applications from people to develop their land for their own use. People should be allowed to develop their land.

Barbara Mallard

Ms. Mallard indicated that having a development plan is important. Once the open space land is rezoned for residential use, then the problems begin. She referenced the townhousing development at the top of Barrows Road, noting that when Council rezoned this land for residential development, she lost her view. People are concerned that by not having a proper development plan, this type of thing will continue to happen. She acknowledged that there is no such thing as a perfect plan that will satisfy everyone, but there are a lot of good ideas in this draft Plan and it should be adopted.

Susan Ledrew (solicitor for Ray Bursey)

Ms. Ledrew indicated that if the City wants to make the Village into a showplace for tourists, it first needs to address a couple of very important ongoing issues, such as discarded chicken parts from the processing plant in Pleasantville flowing into the harbour via the sewer outfall, and the mini sewer "bubble" that exists in the harbour. It is important that the City address these issues before proceeding with any tourism plan.

Norm Mitchell

Mr. Mitchell noted that the Plan recommends that Mr. Bragg's house be torn down, which has upset Mr. Bragg immensely. He only discovered this recommendation as he reviewed the draft. Mr. Mitchell expressed his disappointment that this information was not provided to Mr. Bragg in a more sensitive and respectful manner.

Mr. Mitchell stated that the Bragg family will not permit their land to be used for any public trails. Their road is a private road with no snow clearing services provided by the City, and it will remain that way. He also advised that the Bragg family property extends to the water's edge and 50 feet beyond that into the harbour.

Jack Harris - MHA, Signal Hill-Quidi Vidi

Mr. Harris noted that he has been actively involved in the Village since the controversy over the townhousing development on Barrows Road. The land was sold to developers who used it to build large townhouses and cut off a long standing public view plane. Many residents were very upset and felt that the waterfront development was inappropriate. It destroyed what tourists had come to see and people lost their views. Subsequently, the Foundation was formed to ensure that there was some kind of protection against this happening again.

The resulting Plan has many good ideas, such as keeping buses on the outskirts of the Village, building a footbridge to provide pedestrian access without encroaching on people's properties, purchasing the Tucker property to be used as a Visitor's Centre (Eli's Wharf), and having design guidelines to keep the character of the Village. The Plan attempts to accommodate both tourists and residents. Mr. Harris also expressed his support for Mr. Arsenault's suggestion that the City also purchase 47 Barrows Road to preserve the view.

While the intention and recommendations of the Plan are well-meaning, there is room for modification as well. Some people have expressed concern about the pierwalk, the proposed trails through private property, and the expansion of the Signal Hill National Historic Park boundary. These things can be changed, but the basis of the Plan can remain. Overall, there seems to be a general consensus that there is a need for a plan to ensure preservation of the Village's historic character and to control development.

<u>Christy Ring</u>

Mr. Ring referenced the rezoning application that his father, Randy Ring, has before Council so that he and his sister can build houses on their family land, and he indicated that long time residents only want to be able to develop their land in this manner so that their children can live in the Village too.

<u>Ray Bursey</u>

Mr. Bursey stated that when he built the Flake House Restaurant in 1983, he also had plans to develop another large parcel of land he owned in the Village for tourist use. However, the City expropriated the land, which put an end to the proposal.

<u>Kim Higdon</u>

Ms. Higdon stated that the Foundation and the Association are not enemies, despite the public perception. She noted that the Plan has some good points, such as the proposed children's playground. She urged everyone to work together for the sake of the Village.

Norm Mitchell

As a point of clarification, Mr. Mitchell referenced the townhouse development on Barrows Road, and he noted that the City was offered this property, but turned it down. Subsequently, it was sold to a private developer and that is when the problems started.

Randy Ring

Mr. Ring expressed his concern regarding the amount of traffic going through the narrow streets of the Village, noting that it is extremely dangerous for small children who live there. Traffic has increased in recent years with the extension of the TCH to the White Hills. The roads are narrow and cannot safely accommodate two-way traffic. Therefore, consideration should be given to changing it to one-way traffic to alleviate some of the congestion.

Mr. Ring also expressed disappointment at having to find out from other residents about the recommendations of the Plan pertaining to his property and that of other property owners, especially the recommendations to remove people's houses. He felt that the City should have informed him of the recommendation prior to the release of this document.

Regarding the proposal to purchase private land and expand the Signal Hill Park boundary, Mr. Ring felt that the Park is large enough and doesn't require expansion. Landowners should be able to develop their land, but should do so in keeping with what is already in the Village. With respect to the tourism issue, Mr. Ring noted that there are some tourism oriented businesses in the Village, and he suggested that consideration be given to

helping the existing businesses to make their properties more attractive and useful for tourism purposes.

In closing, Mr. Ring requested that the City address the current issues (traffic congestion, harbour sewer outfall) before moving forward. While he did not agree with all recommendations contained in the Plan, he noted that something is needed to protect the future of the Village and ensure that there are no large scale developments.

Ruth Snow

Ms. Snow advised that the Foundation was started in order to try and stop the condominium development on Barrows Road. However, the Foundation had nothing to do with the Development Plan. The Foundation is mainly involved in helping others in the Village and planning events for seniors and children.

Craig Barnes

Mr. Barnes referenced the area labeled "restored marsh", and he advised that this is his family's property and it is not a restored marsh. The water on this property is the result of water flowing down from the Gibraltar development on Regiment Road which diverted the storm water onto this property. The City had an opportunity to address the problem when the development was initially approved, but it did not, and now the situation has gotten worse.

Randy Walsh

Mr. Walsh noted that the Plan has some good points such as the use of Eli's Wharf as a General Store and Visitor's Centre. However, he indicated he had some concerns which he outlined as:

- **the proposed trails shown on the Plan actually run through private property, but this is not shown on the plan. Many of the property owners do not want trails through their properties.**

The Association is asking for respect for their rights and to be able to develop their land;

- **Parks Canada has indicated to Mr. Walsh that they have no intention of expanding the boundary for Signal Hill Park; therefore, the recommendations to purchase private property for this purpose are unnecessary;**

- **the 1982 Quidi Vidi Development Plan as adopted by Council showed the Walsh property on Cuckhold's Cove Road as being zoned as R1, however, today it is zoned as Open Space, which was rezoned without his knowledge or approval;**

- **the water run-off onto the Barnes property was exacerbated by the Gibraltar development off Cuckhold's Cove Road. The developer should have been directed by the City to divert the storm sewer into Quidi Vidi Lake;**

- **the concerns of the property owners were not taken into consideration in the development of the Plan. The pending application for the Walsh property is not to rezone the entire property, but just that portion to allow development of the residential lots on Cuckhold's Cove Road.**

In conclusion, Mr. Walsh stressed the importance of consulting the property owners on recommendations that pertain to their properties and giving their concerns the proper attention. Randy and Greg Walsh also submitted a written brief following the meeting raising many of the same criticisms raised at the meeting.

Following the public meeting, written submissions from the following were received by the City Clerk's Department and have been considered in the preparation of this Report. Copies of these submissions are also filed with the City planning Office.

Alan and Sharon McCann

Mr. William Squires

Wayne and Denise Cole

Considerations

Many written and oral presentations have been made. It would be impossible to list every issue, complaint, criticism, compliment and item of praise which has been presented. But there were a number of themes which were prevalent and this Report will deal with many of those items which were emphasized by more than one person or which are obvious or important in my view to the process of considering the overall draft Plan.

Going into the meeting, there was a perception in the community, which perception was shared by me based on reports I had received, that there were "two camps" within Quidi Vidi Village, one group which supported the Plan and one which opposed it. In fact, there was much unanimity among presenters, even though it is clear that some individuals had lingering concerns, particularly with respect to their private landholdings and how those properties were treated for development purposes within the Plan. A clear majority of residents and landholders appear, however, to support the idea of a development plan, even though they may oppose certain aspects of this particular Plan.

I have also taken the opportunity to both drive and walk through many areas of Quidi Vidi to get a sense for the area and how the concepts recommended by the Plan might impact this tiny community.

The following issues, not necessarily in order of importance, in my view require comment.

1. Consultation with residents and landowners

There are conflicting statements about the amount of prior consultation there was with residents and landowners, and, while no purpose would be served in trying to determine which explanation is more accurate, some comment from me on this criticism is appropriate.

Clearly, I am satisfied that there has been extensive consultation with many landowners and residents prior to this draft Plan being presented to City Council. But no amount of consultation would satisfy a landowner who opposes a development plan that adversely affects that owner's perceived right to develop private land. And any attempt to contact "all" interested parties will inevitably leave open the possibility that someone will be inadvertently omitted in the consultation process. In addition, it is impossible to predict or explain a situation, as in for example the Brewery, where the consultants met with one of the owners of the business who fully supported the Pierwalk concept only to be faced with the other owner appearing at the meeting in stark opposition to the same Pierwalk. I am satisfied that the consultation process overall has been extensive, if not exhaustive and this satisfies the requirement of due and fair public input.

The Grand Concourse Authority and Tract Consulting have shown that there has been sufficient consultation leading up to the presentation of the Plan to allow most interested property owners the opportunity to have input. If some person or entity was omitted in that process, that is regrettable, but that fact cannot be sufficient grounds to set the draft Plan aside or to refer it back for more consultation. This public meeting process which I was requested to undertake gave further opportunity for input and comment. And finally,

additional input will again be possible in further public hearings if and when Municipal Plan changes follow the adoption of the Development Plan.

2. <u>Planning and private land ownership issues</u>

Finding the delicate balance between an appropriate level of residential construction and the retention of sufficient open space land to protect and isolate Quidi Vidi Village from the construction "creep" that is evident in the growing community of St. John's was an issue that arose at the meeting. Some landowners insist that they should be allowed to build homes on their private land, wherever it was located. Others felt that some buffer should be maintained between the traditional Quidi Vidi Village and the Forest Road extension of the City, which is currently creeping closer day by day.

One of the prices that one pays for living in any organized community is that in order to accommodate group, community or public rights, inevitably some private rights will be affected. Thus, not all landowners in any community will be able to hold land which can be developed to the best or highest value use from a private or purely financial perspective. In any community, some land will be needed for residential purposes, some for commercial uses, some for other civic or other institutional uses, and some will be required to remain undeveloped for a variety of engineering, structural or planning purposes, i.e., the need for open spaces. The essence of any community is that all land is intelligently set aside to a use that is of benefit to the overall community.

Despite the uninformed protests of some landowners who spoke at the meeting, the draft Plan does not have the ability to change existing planning designations under the City of St. John's current Municipal Plan. That is a document has legal structure and sets out a process which must be followed

in order to achieve changes in planning designations. The draft Plan may suggest changes, but it cannot make changes happen.

The Regiment Road development highlights the problem of allowing urban expansion to invade this distinct community. In that case, dense modern home sites have been built of the very edge of Quidi Vidi Village. While the construction of such homes may be appropriate and attractive in a modern city, they do tend to stand out as something which should be avoided in a "traditional fishing community". To protect from that continuing development, the Plan suggests a buffer of open space for much of the land lying southwest of the Village (as it now exists), east of Regiment Road and the eastern extremity of Cuckhold's Cove Road. Under the current Municipal Plan designations, most of the southwestern portion of that land is already set aside as open space, while much of the northeastern portions, especially that area which adjoins Barrows road, are already residential in nature.

Because open space land is of less utility to landowners, every effort should be made to reduce the amount of open space land to a reasonable portion. Perhaps in this case, further consideration could be given to rationalizing the border between the residential land use designation and the open space designation. This realignment would allow a small amount of additional residential development, but not at the same scale as found elsewhere in the City of St. John's. At the same time and with lower densities, this additional land (mostly zoned as open space) could be designated developed using larger rural-type lots with smaller single family cottage-style homes that would not create the density of, for example, a Regiment Road. Row and semi-detached housing should be prohibited because anywhere in Quidi Vidi as it is not consistent with traditional construction styles of the Village. To use the language of the Municipal Plan, this area should be developed with "*uses and densities of uses that presently characterize the area*". This area might then

form a transition zone which would allow the Village to continue to grow, but also have the charm that exists in the already built-up areas. The land in question would be that which is closer to Barrows Road and Quidi Vidi Road. The higher western and southern land would then be left as open space or "buffer" land. The topography may well dictate where the actual boundary should lie. Servicing issues may also impact that area. But the higher elevated land should in any event be the land kept as open space.

A concept line for the limit of the open space land is shown on Annex "A". Clearly, in the end some privately owned land will have to be kept vacant to permit this community to be separate from the rest of the City. That result cannot be avoided in my view. The Village is worthy of protection as a separate community.

3. **<u>Preservation of important buildings/traditional architecture</u>**

There seems to be no question that this aspect of the Plan is fully supported by all residents and landowners. One of the interesting characteristics of any heritage community is the existence of both genuinely old and "made to look compatible" buildings peacefully co-existing in the community. Mallard Cottage is one of the oldest and most recognized structures in Quidi Vidi Village. It works well with some new homes of character, but does not shine next to modern "split entry bungalows". Some of the newer structures now in the Village are quite compatible with the older homes and fishing premises. Others, like the two townhomes on Barrows Road, stick out like proverbial sore thumbs. It is hoped that the Plan will be able to ensure that no structures of that sort are again allowed to be erected in Quidi Vidi. They are out of scale, out of style and out of character with the traditional Newfoundland fishing community concept which the Plan seeks to promote.

There are also some homes in the Village which should be "retrofitted" promptly to make them more compatible with the historical architecture of the older homes. Since the City of St. John's will benefit from promoting this Village as an important place to preserve and visit, the Plan's suggestion that the City should make financial incentives available to owners to achieve that result is a laudable one. I encourage it to be put in place promptly. It is in the interests of all citizens of the City to improve the visual appearance of Quidi Vidi Village and they should all expect pay at least moderately for that result.

4. <u>Traffic flow issues</u>

While the Plan does not currently promote or even entertain the concept of a one-way thoroughfare through the main street, Quidi Vidi Road which provides passage through this community, a number of speakers addressed that suggestion at the meeting. Since the Outer Ring Road was constructed ending at the White Hills area just north of Quidi Vidi Lake, many residents (including the undersigned) have on occasion used the Village road as a "short cut" to the downtown area from the northeast end of the City, from the airport or from the Stavanger Drive commercial site. This transient and sometimes higher speed traffic must be discouraged. If the small community feeling and narrow road system is to endure, it must be supported by a road access that does not encourage such misuse. Serious thought should be given to a one-way concept for Quidi Vidi Road. That being said, significant inconvenience will also be caused to existing residents who, when leaving or approaching their Village homes, must then plan their access and egress from one direction only. More consultation with those residents on this change is recommended before that feature would be introduced.

Widening some existing roads a little may be a priority, even to allow legitimately local traffic the opportunity to move reasonably through the

community. Quidi Vidi Road is very narrow at some points. Barrows Road and Stone's Road are similarly tight and difficult to maneuver.

Finally, the Plan's call for tourist bus parking sites in designated and peripheral areas of the community is quite sensible. Tour buses and other larger vehicles are to be discouraged from even entering the Village for safety and environmental reasons. Widening the current road network to allow unrestricted access by large vehicles is clearly unwise.

5. <u>Walking trail network</u>

A network of walking trails to connect the exiting Signal Hill system to the Village core is one highly controversial feature of the Plan. It would be in my view an intelligent extension of the Grand Concourse Trail system now in place. In time, I would hope that it would find favour with sufficient landowners and become a reality. The Village trails are not a necessity to make the Development Plan work, but it would be unfortunate if some system of trails was not able to be achieved in the short-to-medium term. Many residents have expressed the view that they do not want trails running through their properties. That view must be respected. However, with the passage of time, it is hoped that these positions will soften, especially when the other economic benefits that the Plan offers become apparent to those residents and they may realize that such trails may support and enhance those economic benefits.

The trails would not necessarily enable users to look into private backyards at close range. That argument is a scare tactic. Screening and strategic direction can and should allow privacy to be maintained. In my view, those who say otherwise are not well informed and have obviously not used the Grand Concourse trail network already built in the City of St. John's. The

system has been proven to work and does not cause significant upset to private landowners in the enjoyment of their properties.

Finally, it has been made perfectly clear to any residents who care to listen that such trails are currently only conceptual in location within the draft Plan and they will only exist in reality if and when sufficient landowners allow them to be built on their lands and to be linked to an overall grid. No expropriation of private land holdings is contemplated by the Plan. Those who falsely say that this is the Plan's real intent are clearly attempting to fear monger in order to defeat the Plan for their own purposes.

6. Pierwalk around the harbour

Another highly controversial concept within the Plan is the suggested walking trail around the harbour perimeter, which walkway has been referred to as the Pierwalk. The concept is to allow tourists to meander around the edge of the harbour, mingling with fishers and others who live and work in the community, in order to allow visitors an opportunity to get a true picture of life in a fishing community. Additionally, the Pierwalk would encourage the development of small shops and attractions which would cater to tourists, but be compatible with the community. The construction of small building that look like fishing sheds to house craftpersons, retail shops, etc. was proposed. A similar cluster of sheds called "Scott's Cove" is already in place catering to tourists in the Town of Port aux Basques on the province's west coast, although it is admitted that there are no fishers working in that Scott's Cove area. The cluster of sheds idea is, however, not unique by any means.

Again, the completion of such a concept was expressly stated to be based on achieving consent from all necessary landowners to allow the Pierwalk to be constructed. At the meeting, one of the owners of Quidi Vidi Brewing

expressed the view that the Brewery property would not be available to support a Pierwalk development, yet the consultants believed, based on their conversations with the other owner, that such a proposal would find clear support. Public liability concerns were expressed as the reason for the reluctance to allow the Pierwalk to be built on Brewery land. Interestingly, a recent inspection by the undersigned disclosed that access to the wharf on the Brewery property is currently easily available to all who wish to go there. One wonders how liability issues are currently resolved.

Because a holdout by one or two property owners could foil the entire Pierwalk concept, it would seem prudent for the Plan to suggest from the outset another and alternate approach. If wandering tourists could not use a constructed boardwalk, they will nonetheless find a way to amble through the community, as they do now. There was a suggestion that a walkway utilizing one side of Barrows Road as it follows the harbour would be another, albeit less attractive, way to solve the problem of traffic and pedestrians mixing in tight quarters. The Plan's principle of attracting tourists to walk in the harbour apron area is a sound one. I encourage residents to give it a chance to work.

7. <u>The Plan's heavy focus on tourism</u>

A number of speakers were concerned that the focus of the Plan as currently drafted is unduly on tourism and does not do enough to preserve Quidi Vidi as an attractive place for residents to live. One speaker used the "Disney" reference to show that the design of a "cute" but artificial village is not necessarily the best use or design for demonstrating a working fishing community. Heavier tourist activity is likely to predominate only in the two

brief summer months that the Avalon Peninsula of Newfoundland enjoys. There will be many months in each year when residents will vastly outnumber visitors.

I agree with the residents' concerns that the focus of the Plan is heavily on tourism. While that emphasis is critical to the viability of the area to survive as a community worthy of preservation and separation from the rest of St. John's, the fact is that this assembly of homes must exist and thrive not only for the tourists, but also for the livyers. Whether or not the proposed construction of "historical fishing area" close to the Gut can be successfully supported remains to be seen. I agree with those speakers who suggest that the emphasis should be on allowing tourists to see how a real fishing community lives, rather than creating an artificial area along the lines of a "Black Creek Village" in Ontario or a "Fortress Louisburg" in Cape Breton.

There is wisdom in ensuring that the Village is allowed to be real and not artificial. That is the essence of Newfoundland's charm to tourists. Disney-type theme areas are not necessary. Quidi Vidi has the real thing here already.

Interestingly, other than the Playground and the general improvements to the community, there are not a lot of new features in the Plan that are directed primarily to those who live there as opposed to the visiting tourists. But then, the residents have not said to me at the meeting that there are other features that they want, except the right to build residences on their land. Perhaps the suggested new area for low density smaller scale homes will help change the emphasis, allow additional development and encourage more support from residents.

8. <u>The extension of Signal Hill Park boundaries</u>

The boundaries of the existing Signal Hill National Historic Park, a federally regulated park, are well defined and come close to, but do not quite abut, the outer residential boundaries of Quidi Vidi Village. To protect some of the open space land that lies in between, the consultants have suggested that the park perimeter should increase to consume some of this open space land.

As Signal Hill is a federal park, the City has no ability to dictate where those boundaries lie. It can only request an extension. That extension to the east is at least logical and thoughtful in that the existing Quidi Vidi Gut Battery site is a re-creation/development consistent with the historical aspect of Signal Hill's other fortifications, i.e., the Queen's Battery, which already lies within Park boundaries. In other words, it makes good sense from a consistency standpoint to allow the limits of the Park to increase to take in the open space land and the battery/fortifications at the entrance to Quidi Vidi Gut.

Some residents oppose this initiative because they oppose maintaining the land primarily as open space. Conceptually, the land lying immediately north of Cuckhold's Cove Road, which is not serviceable from Barrows Road, should be kept as open space. Land lying to the immediate south of Cuckhold's Cove Road could be developed without threatening the Village. Whether the Park's boundaries should expand to encompass all such lands is not an issue which I care to offer an opinion on. But, that the Park should extend to take in the Battery fortifications located at the Gut makes eminent good sense. How that expansion would impact the Bragg property is difficult to ascertain. Questions of land and road ownership will have to be resolved. The resolution of those issues lie outside the scope of this Report.

9. <u>Accommodating existing proposals for development</u>

A number of speakers, notably including Mr. Randy Ring, addressed the need to be able to develop existing residentially zoned private lands for residential purposes. While the original embargo on such developments was put in place pending the implementation of a development plan, City Council saw fit more recently to lift that ban and consider proposed developments on their merits while the Plan's future is being considered.

I do not see that it is within my mandate to comment on existing development proposals or criticize the short-lived embargo. The fact is that the existing Municipal Plan is the only document that currently binds both the residents and the Council. It would be sad if City Council were to grant an approval that was clearly and critically inconsistent with this Plan while the consultation process continued, but that being said, it is unfair to landowners to hold them at bay for an indefinite period.

The Ring proposal for the construction of one or two single-family homes fronting on the south side of Barrows Road is not a development which will create a huge obstacle challenging the implementation of the draft Plan, but at the same time, having viewed the rocky and challenging site, it is difficult to see how such homes could be built without causing significant problems relating to vehicular access to and from Barrows Road from that elevated rocky outcrop. It is hoped that the existing permissible uses and restrictions will govern that proposal and dictate a sensible result for that application.

10. <u>Having no development plan at all for Quidi Vidi</u>

While the suggestion of adopting no plan at all for Quidi Vidi may have been seen by some as a possibility prior to the meeting, I am satisfied that most residents who attended the meeting, even those who opposed some of the

features of this current proposal, actually favour having a plan of some sort rather than having no plan at all.

A sensitive area like the Village must be protected from inappropriate development which may thwart the tourism appeal which can be so important to its future. The fishing activity which still survives on a small scale today may cease to be a significant economic enabler for the residents in the future. While fishing is currently balanced with tourism as a core village activity, the future may dictate that tourism will dominate and the fishery, regrettably, may become more of a token than a real economic force. Whether the fishing activity in Quidi Vidi stays as real or becomes "Disney-like" is something which may be out of the hands of the community. But tourism as an economic enabler can and should be promoted and maintaining the unique character of this area should be without doubt. Keeping Quidi Vidi separate, distinct and special is mandatory. I believe that the existing language of the Municipal Plan is insufficient to guide all future development.

<u>Issues not addressed in this Report</u>

There are many other issues both within the Plan and as raised by landowners or residents either in their written submissions or at the public meeting.

To the extent that aspects or features of the Plan are not commented upon by me, I am satisfied that they are a valid part of the Plan and should be retained within it.

Some criticisms of the Plan and the processes which precede it are far too complex and legal in nature to be resolved by me following one brief meeting. I note in particular (1) the extensive brief written and submitted by Randy

and Greg Walsh outlining past perceived wrongs, (2) the questions raised by Doris Hopkirk on the development on Quidi Vidi Pass Battery, the pipeline under the land and its impact on the CDA site on her property, and (3) the legal status of the road leading to the Bragg property and the existing Quidi Vidi Battery site. The resolution of these problems may involve legal and engineering questions which clearly lie outside the scope of my report. The fact that they are not commented upon in this Report does not mean that they do not require resolution at some point or time in the future.

Recommendations

Having considered all of the above issues and the very concept of whether a Plan should be introduced into Quidi Vidi Village, I respectfully submit to St. John's Municipal Council the following recommendations on the proposed Quidi Vidi Village Development Plan:

1. **The final draft Quidi Vidi Village Development Plan, including the Pierwalk, the General Store and Visitor Centre, the neighbourhood Playground, the Quidi Vidi Pass Battery, the Cascade Park and all other proposed features, be adopted by the City of St. John's at the earliest reasonable opportunity, following the consideration of the suggested amendments to the existing "final draft" as set out below.**

2. **That the Plan should recommend a rationalization of Quidi Vidi's residential land use designation so that it would permit only lower density and smaller scale residential development in those parts of the community that are not required as a necessary buffer of open space land to separate the Village from other residential development in the City of St. John's. See Appendix "A" for conceptual lines only.**

3. **The Plan text should be amended to encourage more strongly the use of financial incentives for owners to improve the appearance of structures which currently to not fit the traditional and historic character of the Village**

4. **The Plan text should be slightly amended to recognize a better balance of focus between tourist uses and resident uses.**

5. **The Plan should suggest an alternate proposal to the Pierwalk which would allow visitors easy access around the harbour in the event that permission is not able to be obtained from all owners whose lands abut the waterfront.**
6. **The plan should suggest the concept of Quidi Vidi Road becoming a one-way street, but this idea should be subject to future discussion with residents and other stakeholders prior to implementation.**

All of that being said, items 2 to 9 are only suggestions for possible change. The draft Plan as it currently exists is a workable plan with many attractive features. Even considering there may be some difficult aspects within it, as many speakers advocated at the hearing, having a development plan with flaws is a far better result for this community than having no plan at all.

Respectfully submitted the 23rd day of June 2006.

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John F. Roil, QC

APPENDIX "A"

R Rural
R1 Residential Low Density
R2 Residential Medium
AA Apartment Special
CDA Comprehensive Development Area
RQ Residential Quidi Vidi
IQ Industrial Quidi Vidi
O Open Space
The Boulevard
Storage Tanks
Quidi Vidi Lake
Quidi Vidi Village Road
Quidi Vidi Harbour
Barrow's Road
Quidi Vidi Gut
Regiment Road
Cuckhold's Cove Road
Forest Road
Maxwell Place
Signal Hill National Historic Site Boundary
NOTE: ALL BOUNDARIES ARE APPROXIMATE